

# **BOARD OF ZONING ADJUSTMENT MINUTES**

**September 11, 2012**

Regular meeting of the Clay County Board of Zoning Adjustment, Commission Hearing Room, 3<sup>rd</sup> Floor, County Administration Building, One Courthouse Square, Liberty, Missouri.

## Call to Order

@ 4:00 pm: David Fulton, Chairman

Roll Call: Matthew Tapp, Director

**Members Present:** David Fulton, David Fricke, Brian Klopfenstein, and Vernon Reed

Members Absent: Mike Johnson

Staff Present: Matthew Tapp, Director  
Debbie Viviano, Planner  
Greg Canuteson, Assistant County Counselor  
Angie Stokes, Secretary

**Mr. Fulton:** Okay let's call this September 11, 2012 meeting of Clay County Board of Zoning and Adjustment to order it's now 4 p.m. Would you call roll please Matt.

**Mr. Tapp:** Yes Mr. Chairman. Mike Johnson?

**Mr. Johnson:** No answer.

**Mr. Tapp:** Brian Klopfenstein?

**Mr. Klopfenstein:** Here.

**Mr. Tapp:** David Fricke?

**Mr. Fricke:** Here.

**Mr. Tapp:** David Fulton?

**Mr. Fulton:** Here.

**Mr. Tapp:** Vernon Reed?

**Mr. Reed:** Here.

**Mr. Fulton:** Okay this is as you recall we have the minutes, you have received the minutes for the last meeting does anyone have any additions or corrections, that was the meeting of August the 28<sup>th</sup> of 2012. Do I hear any additions or corrections to those minutes? If not I would entertain a motion to approve the minutes as received.

**Mr. Klopfenstein:** I'll make that motion Mr. Chairman.

**Mr. Fricke:** I second.

**Mr. Fulton:** Klopfenstein made it seconded all those in favor of the—is there any discussion? All those in favor of the motion as seconded signify by saying “aye”

**All:** Aye.

**Final Vote**            **4/0**    **Approved**    **August 28, 2012**  
**BZA Minutes**

**Mr. Fulton:** Okay minutes of the Board of Zoning Adjustment meeting of August the 28<sup>th</sup> have been approved. At this time, this is a continuation of the meeting of the 28<sup>th</sup> as you recall we had an action that was tabled, we had the public hearing on that case, which is case number 12-104BZA so I would not anticipate, we will not open it up as a public hearing. However anyone that would like to come up tonight that would like to testify or to make any comments I'll entertain anyone's comments. We will be sure anyone that came tonight has a chance to say something even if it's a—we don't have an official public hearing and at that time I would swear in those individuals. So with that the Chair would entertain a motion to take the case number 12-104BZA off the table, remove it from the table.

**Mr. Fricke:** So moved.

**Mr. Fulton:** Okay it has been moved is there a second?

**Mr. Reed:** Second.

**Mr. Fulton:** Okay call the roll for approval.

**Mr. Tapp:** Brian Klopfenstein?

**Mr. Klopfenstein:** Yes.

**Mr. Tapp:** David Fricke?

**Mr. Fricke:** Yes.

**Mr. Tapp:** Dave Fulton?

**Mr. Fulton:** Yes.

**Mr. Tapp:** Vernon Reed?

**Mr. Reed:** Yes.

**Final Vote                      4/0      Approved      To Remove Case 12-104BZA from Table**

**Mr. Fulton:** Okay now as you recall there were many motions, I mean one motion and many amendments, I think like four at our last meeting and it was, it is our Mr. Klopfenstein that we very specifically write in all the detail which is for what the counsel was in favor of but I had noticed that in talking to counsel I see that there is some very very minor changes, modifications and additions as to just how it was added by, they just couldn't add them in the same verbiage so without changing any content just some of the verbiage, so we have two options gentlemen we can either vote on the motion on the basis that we have a new document which you all received several days ago and had a chance to look it over or we could have those individuals and vote the one we were working on so what I'm talking about we've got a motion with a lot of amendments and we got a clean document here. The clean document has all the amendments on it. So I'd like to get the point where we're voting on the clean document.

**Mr. Klopfenstein:** How about I'll make a motion to withdraw the previous proposed changes and amendments.

**Mr. Fulton:** Okay a motion has been made to withdraw, I would like, and you proposed the amendments? I would like the individual that proposed the motion to approve the previous document to withdraw the motion.

**Mr. Klopfenstein:** Vernon that's you.

**Mr. Reed:** What?

**Mr. Klopfenstein:** Make the motion to withdraw yours.

**Mr. Fulton:** Who made the motion to approve?

**Mr. Klopfenstein:** Vernon.

**Mr. Fulton:** Okay Vernon would you like to remove the—withdraw your motion?

**Mr. Reed:** If that leads to the next motion to approve the new document yes.

**Mr. Fulton:** We need the old document off the table.

**Mr. Reed:** If that is the formality that we go through I so move.

**Ms. Fulton:** You agree to withdraw you motion?

**Mr. Reed:** Yes.

**Mr. Fulton:** Who did the second?

**Mr. Klopfenstein:** I did.

**Mr. Fulton:** Will you withdrawal your second.

**Mr. Klopfenstein:** Yes.

**Mr. Fulton:** And you withdraw the four amendments?

**Mr. Klopfenstein:** Yes.

**Mr. Fulton:** Okay so as of right now the slate is – there's nothing on the table?

**Mr. Klopfenstein:** Right.

**Mr. Fulton:** So the Chair would entertain a motion to action relative to the new document that you have received which has all of the amendments written into it and is proposed by Mr. Klopfenstein, but there is no amendments it's all in one document. So do I have a motion?

**Mr. Reed:** I move that we adopt the new Finding of Facts and Conclusions of Law as presented to us prior to this meeting that is before us now.

**Mr. Fulton:** Now before I have a second, how is this identified versus the previous document? Is this dated I see no.

**Mr. Canuteson:** No, Mr. Chairman this document is not dated it is the one that has been handed out to all the members of the Committee.

**Mr. Reed:** Perhaps I should include in my motion that we adopt the compiled revisions as approved prior, in a prior meeting and that is now before us, incorporating all the changes we had agreed upon previously.

**Mr. Canuteson:** Mr. Chairman what I would suggest that you simply put a number 1X on your document and identify that as the Findings of Fact and Conclusions of Law that is being considered here at the present moment and that's how we will identify that particular document and that will be the document that you will sign, if it passes.

**Mr. Fulton:** Mr. Reed would you like to withdraw your motion and make a new motion to identify what the motion is.

**Mr. Reed:** Yes I will withdraw that motion I made and substitute instead a motion to approve document 1X that is before us identifying the current Findings of Facts and Conclusion of Law.

**Mr. Fulton:** Very good is there a second to that motion?

**Mr. Klopfenstein:** I'll second.

**Mr. Fulton:** Okay motion has been duly made and seconded; now we'll open for discussion. Mr. Klopfenstein would like to, is there anything you would like to point out?

**Mr. Klopfenstein:** No I had a chance to go over it and I spoke to Mr. Canuteson and am satisfied that 1X contains all of the corrections, revisions, changes and modifications that we identified and I believe it's a fair and accurate and complete document.

**Mr. Fulton:** Mr. Canuteson do you have any comments?

**Mr. Canuteson:** No, your Honor, Mr. Chairman if you look at page 2 number 8 and number 9 are new. Those were discussed at the last meeting. Mr. Klopfenstein also added numbers 19, 20 and 21 to page 4 and 5; those were also discussed at the last meeting. And he added the last paragraph that begins on page 7 and ends on page 8, that was also discussed at the prior meeting the wording is a little bit different from what was discussed at the prior meeting, he did it to have it more accurate and it's incorporated better in this document than what it had been had the amendments just been added and so I made those changes pursuant to Mr. Klopfenstein's recommendations.

**Mr. Fulton:** Okay, do any of the Board Members here have questions? Matt do you have any?

**Mr. Tapp:** No, Mr. Chairman.

**Mr. Fulton:** With that being said I will, we have a motion on the floor are you ready to vote on the motion to approve the Findings of Facts and Conclusion of Law identified by 1X of which I'm passing on, I'll pass on to Matt for exhibit. This would be Exhibit 1X. Okay if we're hearing no opposition to the vote let's call roll.

**Mr. Tapp:** Brian Klopfenstein?

**Mr. Klopfenstein:** Yes.

**Mr. Tapp:** David Fricke?

**Mr. Fricke:** Yes.

**Mr. Tapp:** David Fulton?

**Mr. Fulton:** Yes.

**Mr. Tapp:** Vernon Reed?

**Mr. Reed:** Yes.

**Final Vote    4/0    Approved    Case 12-104BZA  
1X Finding of Facts and Conclusion of Law**

**Mr. Fulton:** Very good is there any other business to come before the Board this evening?

**Mr. Tapp:** Mr. Chairman there is the consideration of the fifth seat on the Board of Zoning Adjustment, we had an opportunity to speak with Board member Mike Johnson and because of family commitments he is having a difficult time being here for the meetings. So if anyone has any names to consider we will have to look and see where Mike falls in the picture of the statutes, but if you have any friends, relatives or whomever that might be interested by all means forward on the name and we'll talk.

**Mr. Fulton:** Is there any business? Have you got any applications before you for September or are we beyond that date?

**Mr. Tapp:** No, Mr. Chairman. There is no September.

**Mr. Fulton:** The regular September meeting?

**Mr. Tapp:** Correct.

**Mr. Fricke:** Is the pay the same Matt?

**Mr. Tapp:** Yes you will get your large check in the mail.

**Mr. Klopfenstein:** I keep thinking somebody is going to provide dinner as some of these. Not happening.

**Mr. Fulton:** If not do I hear a motion to ....

**Mr. Reed:** Mr. Chairman I want to express my appreciation to everybody for accommodating the conflict I had for previous time scheduled that allowed us to include me in this processing today. Thank you all very much for letting me be here.

**Mr. Fulton:** Do I hear a motion to adjourn?

**Mr. Klopfenstein:** So moved.

**Mr. Fricke:** I second.

**Mr. Fulton:** All those in favor signify by saying "aye".

**All:** Aye.

**Meeting Adjourned**

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*Chairman, Board of Zoning Adjustment*

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*Secretary, Board of Zoning Adjustment*

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*Recording Secretary*